

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION**

THE GENERAL LAND OFFICE OF THE STATE OF
TEXAS, and DAWN BUCKINGHAM, M.D., in her
official capacity as Commissioner of the Texas General
Land Office,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF HOMELAND
SECURITY; and ALEJANDRO MAYORKAS, in his
official capacity as Secretary of the Department of
Homeland Security,

Defendants.

Civil Action No. 7:21-cv-00272

THE STATE OF MISSOURI; THE STATE OF
TEXAS,

Plaintiffs,

v.

JOSEPH R. BIDEN, in his official capacity as
President of the United States, *et al.*,

Defendants.

Civil Action No. 7:21-cv-00420
(formerly No. 6:21-cv-00052)

FIFTH DECLARATION OF PAUL ENRIQUEZ

I, Paul Enriquez, declare as follows:

1. I am the Director, Infrastructure Portfolio, U.S. Border Patrol Program Management

Office Directorate (“PMOD”), U.S. Customs and Border Protection (“CBP”), an agency of the Department of Homeland Security (“DHS”). I have held this position since January 2023 and support the planning and execution of border infrastructure projects from construction to maintenance. From May 2021 to December 2022, I served as the Deputy Director for the Infrastructure Portfolio and from August 2018 to May 2021, I served as the Real Estate and Environmental Director for the Infrastructure Portfolio. From 2013 to August 2018, I was the Real Estate and Environmental Branch Chief for the Border Patrol and Air and Marine Program Management Office (“BPAM”), Facilities Management and Engineering, Office of Facilities and Asset Management. From 2011 to 2013, I was employed as an Environmental Protection Specialist in the BPAM office. In that role, I performed environmental analyses for various border infrastructure projects. From 2008 to 2011, I was a contractor assigned to the BPAM office and provided environmental support on various border infrastructure projects.

2. CBP is the DHS component with primary responsibility for border security. CBP constructs, operates, and maintains border infrastructure necessary to deter and prevent illegal entry on the southern border.

3. Within CBP, PMOD has expertise in managing and executing border infrastructure projects. PMOD is tasked with managing the schedule, finances, real estate acquisition, environmental planning, and construction of the border infrastructure system along the U.S. border.

4. Based upon my current and past job duties, I am familiar with the funding appropriated to CBP for barrier system construction and the obligations and projects associated with such funding.

5. I previously submitted declarations on December 8, 2021, July 12, 2022, August 18, 2023, and September 27, 2023 that outlined, among other things, how CBP was using the appropriated funds it received in prior fiscal years for barrier system in a manner that is consistent with their purpose and DHS’s *Border Wall Plan Pursuant to Presidential Proclamation 10142*, which was released on June 11, 2021, and a subsequent amendment to the Plan, which was released on July 11, 2022.

6. This declaration supplements those earlier declarations.

7. This declaration is based on my personal knowledge and information made available to me in the course of my official duties.

NEW BORDER BARRIER SYSTEM IN THE RIO GRANDE VALLEY

8. As detailed in my August 18, 2023, declaration, on June 30, 2023, DHS announced that it had authorized CBP to move forward with planning and execution of up to approximately 20 miles of new border barrier system in the United States Border Patrol (“USBP”) Rio Grande Valley (“RGV”) Sector, a project to be funded by the fiscal year (“FY”) 2019 barrier system appropriation (the “RGV Barrier System Project”). *See* U.S. Customs & Border Protection, CBP Moves Forward on RGV Barrier and Yuma Andrade and El Centro Calexico Fence Replacement Projects to Mitigate Immediate Life, Safety and Operational Risks, *available at* <https://www.cbp.gov/newsroom/local-media-release/cbp-moves-forward-rgv-barrier-and-yuma-andrade-and-el-centro-calexico>.

9. On September 28, 2023, CBP awarded a construction contract for the RGV Barrier System Project, through which CBP will construct approximately 17 miles of new border barrier system in Starr County, Texas, within the USBP RGV Sector. On October 5, 2023, the Secretary of Homeland Security, pursuant to his authority under Section 102(c) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as amended, 8 U.S.C. § 1103 note, issued a waiver covering the RGV Barrier System Project. U.S. Dep’t of Homeland Security, *Determination Pursuant to Section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, As Amended*, 88 Fed. Reg. 69,214 (Oct. 5, 2023), *available at* <https://www.federalregister.gov/documents/2023/10/05/2023-22176/determination-pursuant-to-section-102-of-the-illegal-immigration-reform-and-immigrant-responsibility>. As set forth in the Secretary’s determination, the waiver is intended to ensure the expeditious construction of the RGV Barrier System Project.

10. As part of that same contract awarded on September 28, 2023, CBP also contracted for the installation of system attributes in the USBP RGV Sector in locations where CBP has already

constructed physical barrier. The total contract value for the September 28, 2023, contract is approximately \$226,393,000. It is funded by the FY 2019 barrier system appropriation.

NEW CONTRACTS USING THE FISCAL YEAR 2020 AND 2021 BARRIER SYSTEM APPROPRIATIONS

11. As set forth in my August 2023 declaration, as of August 17, 2023, CBP had obligated approximately \$683,000,000 in FY 2020 barrier system funds and approximately \$531,000,000 in FY 2021 barrier system funds. I further stated that CBP was planning to make additional contract awards for remediation work and system attribute installation within the areas where the Department of Defense (“DoD”) previously engaged in barrier construction pursuant to 10 U.S.C. § 284 and 10 U.S.C. § 2808.

12. Since my August 2023 declaration, CBP has awarded four contracts for remediation work and system attribute installation in the USBP San Diego, El Centro, El Paso, and Tucson Sectors where DoD previously engaged in barrier construction pursuant to 10 U.S.C. § 284. Installation of barrier system attributes involves, as appropriate to each location, adding cameras, roads, and detection technology to enhance the functionality and effectiveness of the physical barrier that DoD constructed. The remediation work under these contracts is expected to consist of closing gaps in the existing barrier, completing or installing gates, fixing or improving patrol roads, installing drainage and erosion control measures, including repair of existing drainage gates, and addressing other environmental requirements specific to the project areas.

- a. On September 28, 2023, CBP awarded a contract for remediation work and system attribute installation in the USBP Tucson Sector in the former DoD § 284 Tucson 1 and 2 project areas. The contract is funded by the FY 2020 barrier system appropriation. The total contract value for the project is approximately \$300,000,000.
- b. On September 28, 2023, CBP awarded a contract for system attribute installation in the USBP Tucson Sector in the former DoD § 284 Tucson 9

project area. The contract is funded by the FY 2021 barrier system appropriation. The total contract value for the project is approximately \$126,875,000.

- c. On September 28, 2023, CBP awarded a contract for system attribute installation in the USBP San Diego, El Centro, and Yuma Sectors in the former DoD § 284 project areas. The contract is funded by the FY 2020 barrier system appropriation. The total contract value for the project is approximately \$261,783,000.
- d. On September 28, 2023, CBP awarded a contract for system attribute installation in the USBP El Paso Sector in the former DoD § 284 project areas. The contract is funded by the FY 2020 and FY 2021 barrier system appropriations. The total contract value for the project is approximately \$259,000,000.

13. In addition to the contract awards for remediation and system attribute installation set forth above, CBP has made other contract awards since my August 2023 declaration. On September 23, 2023, CBP made a contract award for the installation of anti-climb features on existing physical barriers in the USBP San Diego Sector. Anti-climb features are affixed to the top of the physical barrier and are intended to make the barrier harder to scale. In this case, the anti-climb feature is a five-foot smooth steel plate, which makes it more difficult for an individual to have a foot or hand hold on the barrier. It also makes it more difficult for an individual to use climbing tools to scale the barrier. The contract also covers patrol road improvements in the USBP San Diego Sector. The contract is funded by the FY 2021 barrier system appropriation. The total contract value of the contract is approximately \$2,500,000.

14. Additionally, CBP made contract awards for information technology support to the barrier system program as well as environmental planning and monitoring support; obligated funds through inter-agency agreements with other federal agencies to support barrier system land acquisition and environmental remediation projects; awarded a contract for program and project

management support and made settlement payments required by the terms of binding settlement agreements from prior barrier-related litigation.

15. In light of the additional contract awards using FY 2020 and 2021 appropriations since my August 2023 declaration, as of the September 30, 2023, CBP has approximately \$12,700,000 in FY 2020 barrier system funds that remain available for obligation. Those funds remain available for obligation until September 30, 2024. Also as of September 30, 2023, CBP has approximately \$670,600,000 in FY 2021 barrier system funds that remain available for obligation. Those funds remain available for obligation under September 30, 2025.

16. As stated in my August 2023 declaration, CBP is currently engaged in an environmental planning process, including actions consistent with the National Environmental Policy Act, concerning the remediation work that is planned in the former § 2808 project areas. *See* U.S. Customs & Border Protection, Border Barrier Remediation – San Diego and Imperial Counties, CA; Yuma County, AZ; Hidalgo and Luna Counties, NM – May 2023, *available at* <https://www.cbp.gov/about/environmental-management/border-barrier-remediation-san-diego-and-imperial-counties-ca-yuma-county-az-hidalgo-and>. As soon as the environmental planning process is complete, CBP expects to award additional contracts covering remediation in the USBP San Diego, Yuma, and El Paso Sectors within the former DoD § 2808 project areas. CBP expects to use a substantial portion of the remaining FY 2020 and FY 2021 barrier system funds for these contracts. CBP expects to make contract awards in the third quarter of FY 2024.

This declaration is made pursuant to 28 U.S.C. § 1746. I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 17th day of October, 2023.

A handwritten signature in blue ink, appearing to read "Paul Enriquez", with a stylized flourish at the end.

Paul Enriquez
Infrastructure Portfolio Director
Program Management Office Directorate
U.S. Border Patrol